



July 27, 2011

Mr. Vincente Rodriguez
Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123
vrodriguez@waterboards.ca.gov

**RE: San Diego Coastkeeper's and Environmental Health Coalition's Comments
on the Shipyard Sediment Cleanup Draft Environmental Impact Report**

Dear Mr. Rodriguez:

San Diego Coastkeeper and Environmental Health Coalition (“Environmental Parties”) have reviewed the Draft EIR for the Shipyard Sediment Cleanup. The Environmental Parties remain concerned about the inadequacies of the remedial and post-remedial monitoring plans, detailed in our comments submitted on May 26, 2011. Notwithstanding these comments, with a few additions and clarifications, the Draft Environmental Impact Report will be adequate. It is imperative that the toxic sediments—too toxic for the Ocean Dump site—be removed from the Bay as soon as possible.

The Environmental Parties submit the following comments and recommendations to ensure that the Draft EIR fully reflects the conditions and measures needed to reduce environmental impacts from the project. The Environmental Parties reserve the right to rely on other comments submitted.

I. The Draft EIR should include and adopt a new, environmentally preferable sediment barging option.

The current proposal involves two legs of truck traffic related to the project: (1) to truck the dredge spoils to the treatment staging area and (2) to haul the treated sediment to the appropriate landfill. Any remedial option that achieves the cleanup goals while also (1) reducing the number of trucks and truck trips, (2) reducing greenhouse gas emissions, and (3) avoiding from parking impacts on local communities, should be viewed as environmentally preferable.

The Environmental Parties request that the Draft EIR include and adopt a new option of barging the sediments bound for Otay Landfill to Staging Area 5 on the National City Marine Terminal for treatment. This option could reduce the number of trucks and truck trips, reduce greenhouse gas emissions, and avoid additional parking impacts on local communities. Northern areas of the proposed Staging Area 5 would reduce or eliminate potential impacts on the Sweetwater Marsh

wildlife refuge and should be identified. No areas on the National City Marine Terminal near the parks or commercial areas should be considered for staging.

Similarly, the Naval Station should be evaluated as an additional staging area because it has many piers that are easily accessible by water and the Navy is a potentially responsible party. Further, Naval Station areas north of the National City Marine Terminal are good potential locations that would also support use of barges.

II. New relevant studies should be included in the Draft EIR.

The State Water Resources Control Board Surface Water Ambient Monitoring Program's (SWAMP) 2009 Coast Survey, "Contaminants in Fish from the California Coast," (Attached as Exhibit A) should be included in the Draft EIR. The Coast Survey is California's largest-ever statewide survey of contaminants in sport fish from coastal locations, and it evaluates the extent of chemical contamination in sport fish from California's coastal waters. Results from the first year of the two-year survey reveal that San Diego Bay stands out as having elevated concentrations of mercury and PCBs.¹ The survey sets further data collection and analysis of contamination levels in San Diego Bay as a high priority.²

Likewise, the recent "Final Report to the Port of San Diego Chemical Analysis of threatened and Endangered Species in San Diego: The San Diego Bay Trophic Transfer Project," by Dr. Rebecca Lewison (Attached as Exhibit B) should be included in the Draft EIR. This study demonstrated that turtles, a long-lived species in the Bay, have had both chronic and acute exposures to toxic chemicals linked to bay sediment contamination through their food sources.³

These studies should be included in the Draft EIR because they further demonstrate the adverse effects of sediment contamination on wildlife in the bay.

III. The Draft EIR fails to assess and address impacts of filling the Convair Lagoon, which should not be considered a viable alternative.

The Draft EIR fails to adequately address the impacts of filling Convair Lagoon. When originally conceived and permitted, the existing underwater cap was to be replanted with eelgrass and restored as a habitat. If the lagoon is filled, the loss of habitat area and of open water would need to be mitigated. However, two projects listed as potentials (intake/discharge channels of the power plant and fixing a failed previous mitigation) would not be appropriate and would, in fact, constitute 'double-dipping.' Thus, these two projects should not be considered as mitigation options. The Port is very limited on mitigation options in the bay, so a major effort must be made to find adequate and appropriate mitigation for this option.

¹ J.A. Davis et al., Contaminants in Fish from the California Coast, 2009: Summary Report on Year One of a Two-Year Screening Survey, A Report of the Surface Water Ambient Monitoring Program (SWAMP), California State Water Resources Control Board, Sacramento, CA (2011).

² *Id.*

³ Lewison et al., Chemical Analysis of Threatened and Endangered Species in San Diego (2011).

IV. New mitigation measures must be added to the Draft EIR, and current measures must be strengthened.

Mitigation measures must be added to the Draft EIR. As written, the Draft EIR fails to provide adequate and appropriate mitigation with respect to impacts on the community, air quality, and on endangered species and habitats.

a. The staging areas will adversely affect the community and must be mitigated.

Displaced parking is already a major issue in the community, thus any parking impacts must be mitigated. Staging Areas 1-4, if used, will have significant impacts on the entire community, and Staging Area 5, if used, will have impacts on areas of west Old Town National City. Mitigation fees to offset impacts should be paid to the Port's Capital Improvement Fund for projects in Barrio Logan and Old Town National city in proportion to the amount of traffic and impacts that accrue in those neighborhoods.

Further, trucks parked in neighborhoods while waiting for pick-ups and drop-offs would negatively impact the community. The Draft EIR should designate a truck staging area to address this issue.

b. Current mitigation measures for air quality impacts must be strengthened to ensure that the cleanup protects the environment and does not contribute to existing air pollution.

Mitigation Measures 4.6.8 and 4.6.9 should be strengthened to require all that trucks used be hybrid or cleaner alternative fuel trucks and tugs. Further, electric powered dredging equipment should be required for all dredging. For a project of this magnitude and duration, it will be cost-effective to utilize this new technology.

The Environmental Parties suggest that Mitigation Measure 4.6.10 should be required without limitation or, at a minimum, the Draft EIR should define what "cost-effective" means. Without this requirement, the dischargers will not use hybrid or cleaner alternative fuel trucks and tugs. Further, for air emissions that cannot be eliminated, the dischargers must acquire NOx and ozone offsets for the emissions from the project, as the area is currently in "non-attainment" for these air pollutants.

In addition to reducing air pollution in local communities, a requirement for hybrid tugs and trucks would also help reduce the impacts on global climate change. This option is clearly feasible, as the Ports of Los Angeles and Long Beach are using a zero-emission heavy-duty rig that runs on electric batteries powered by a hydrogen fuel cell to transport cargo between the ports and Inland Empire warehouses and distribution centers. *See Los Angeles Times, "Seaport complex takes delivery of zero-emission hauling truck," July 23, 2011, Attached as Exhibit C.*

c. The Draft EIR must adopt more stringent measures to mitigate impacts on endangered species and of habitat loss in the bay.

The Draft EIR should recommend that dredging should not be allowed to occur during the California Least Tern nesting season. The Tern colonies in the region are already suffering under existing pressures, such as the Big Bay fireworks show and budget cuts reducing predator management. The Cleanup would place additional pressure on the already strained Tern population. Thus, if dredging is allowed during nesting season, mitigation of impacts to the Terns must be required.

The economic analyses included in the Draft Technical Report assume that dredging will not occur during the California Least Tern nesting season. If this limitation is not required, the Cleanup Team must re-calculate dredging costs to reflect this changed assumption.

Further, the Draft EIR should require mitigation if any open water or bay bottom is permanently lost to fills or confined disposal facilities.

Thank you for the opportunity to comment on this document. We look forward to the hearing on the CEQA analysis and the merits of the cleanup by the end of the year.

Sincerely,



Jill Witkowski
Staff Attorney, San Diego Coastkeeper

On behalf of San Diego Coastkeeper and
Environmental Health Coalition